

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
CENTRAL ISLIP DIVISION**

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IN RE:

**Marylou C. Gatto,
aka Marylou Gatto
aka Marylou C Canevari
aka Mary Lou C Gatto
aka Mary Lou Canevari
aka Mary Lou Gatto
aka Marylou C Cavevari
aka Mary Lou C Canevari
Debtor.**

**Bankruptcy Petition #:
8-18-74826-ast
CHAPTER 13
Hon: Alan S. Trust
Hearing Date: 10/04/2018
Hearing Time: 09:30 AM
Related Doc: 11**

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OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

DITECH FINANCIAL LLC ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE #11), and states as follows:

1. Debtor, MARYLOU C. GATTO ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on July 18, 2018.
2. Secured Creditor holds a security interest in the Debtor's real property located at 11 WINSTON DRIVE, SMITHTOWN, NY 11787, by virtue of a Mortgage recorded on March 10, 2008 in Book M00021679, at Page 700 of the Public Records of Suffolk County, NY. Said Mortgage secures a Note in the amount of \$315,000.00.
3. The Debtor filed a chapter 13 plan on August 13, 2018.
4. The Plan fails to mention the total amount of arrears owed. It is anticipated that Secured Creditor's claim will show the pre-petition arrearage due Secured Creditor is \$332,822.80. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed. Secured Creditor objects to any plan which proposes to pay it anything less than \$332,822.80 as the pre-petition arrearage over the life of the plan.

5. Debtor proposes to pay the Trustee the ongoing mortgage payments. It is respectfully submitted that these funds are due to the secured creditor and should be disbursed monthly as an adequate protection payment
6. Debtor's Plan evidences an intent to seek mortgage modification with Secured Creditor. Thus far, loan modification has not been offered or approved. Debtor is obligated to fund a Plan which is feasible to cure the arrears due to the objecting creditor within a reasonable time pursuant to 11 U.S.C § 1322(b)(5). Therefore, in the event that any loss mitigation efforts are not successful, the plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 11, 2018, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

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